

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

114 WEST ELEVENTH STREET
KANSAS CITY, MISSOURI 64105-1804

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AND GENERAL COUNSEL

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GOVERNMENTAL AFFAIRS

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JOHN J. CONNOR
JAY M. NADLMAN
GENERAL ATTORNEYS

3-124A044

April 29, 1993

RECORDED 18222 FILED 1425

MAY 4 1993 3:25 PM

Honorable Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
12th Street and Constitution Avenue
Washington, D.C. 20423

INTERSTATE COMMERCE COMMISSION

Dear Mr. Strickland:

I have enclosed an original and one copy of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a User Agreement, a document dated April 28, 1993.

The names and addresses of the parties to the documents are as follows:

- (1) Bailor, (Carland, Inc., 1055 Broadway, Suite 990 Kansas City, MO 64105-1599)
- (2) Bailee, (The Kansas City Southern Railway Company, 114 West Eleventh Street, Kansas City, MO 64105-1804)

A description of the equipment covered by the document follows:

Two GP-38-2 2000 horsepower 1975 built locomotives
KCS 4032 & KCS 4033

A fee of \$16.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to The Kansas City Southern Railway Company, 114 West Eleventh Street, Kansas City, MO 64105, Attn: Law Department.

A short summary of the document to appear in the index follows: User Agreement between Carland, Inc., 1055 Broadway, Suite 990, Kansas City, MO 64105 and The Kansas City Southern

Railway Company, 114 West Eleventh Street, Kansas City, MO 64105
dated April 28, 1993, and covering two GP-38-2 2000 horsepower 1975
built locomotives.

Very truly yours,


Jay M. Nadlman

JMN:jar

Enclosures

cc: Larry D. Nicotra
President, Carland, Inc.
John D. Patton
Director, Fleet Utilization, KCSR

Interstate Commerce Commission
Washington, D.C. 20423

5/5/93

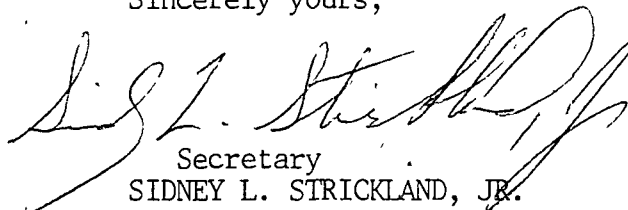
OFFICE OF THE SECRETARY

Jay M Nadlman
General Attorney
The Kansas City Southern Railway Co.
114 West Eleventh Street
Kansas City Missouri 64105-1804

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions
of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303,
on 5/4/93 at 3:25pm, and assigned
recordation number(s). 18222

Sincerely yours,



Secretary
SIDNEY L. STRICKLAND, JR.

Enclosure(s)

MAY 4 1993 3:25 PM

USER AGREEMENT

THIS USER AGREEMENT, dated this 28th day of April, 1993, COM...
between THE KANSAS CITY SOUTHERN RAILWAY COMPANY, a Missouri
corporation ("KCS"), and CARLAND, INC., a Delaware corporation
("Carland").

WITNESSETH:

WHEREAS, Carland is a party to an agreement with GATX
Capitol Corporation ("GCC") dated April 21, 1993, calling for GCC
to sell to Carland, and Carland to accept and pay for, Two GP 38-
2 locomotives; and

WHEREAS, KCS intends, but is not obligated, to purchase the
locomotives from Carland with the proceeds of one or more per-
manent forms of financing and Carland is not obligated to sell
the locomotives to KCS; and

WHEREAS, Carland and KCS desire that KCS be permitted to use
the locomotives solely as a bailee thereof, upon the terms and
conditions hereinafter provided;

NOW, THEREFORE, in consideration of the mutual covenants
contained in this agreement, and intending to be legally bound,
the parties agree as follows:

1. Carland agrees to permit KCS to use the locomotives
purchased by Carland under the GCC Purchase Agreement for a term
commencing on the respective dates of delivery thereof and ending
on the earlier of December 31, 1993 and the date, if any, of
purchase of such locomotives by KCS from Carland. At the end of
such term, this Agreement shall automatically terminate without
further action by or notice to either party to this Agreement,
except for those provisions which, in order to be given effect,
must survive termination.

2. Upon delivery of each locomotive from Carland to KCS,
KCS shall execute a Certificate of Acceptance, in the form of
Exhibit A hereto, acknowledging the receipt of delivery of each
such locomotive under this Agreement and the commencement of the
term of this Agreement with respect to such locomotive. Title to
and ownership of each locomotive shall remain in Carland with
KCS' rights and interests therein being solely that of posses-
sion, custody and use as bailee under this Agreement.

3. KCS shall do such acts as may be required by law or as
reasonably requested by Carland for the protection of Carland's
title to, interest in, and ownership of the locomotives, includ-
ing, but not limited to, filing this Agreement (or a memorandum
hereof) with the Interstate Commerce Commission.

4. KCS shall pay to Carland for the use of the locomotives
an amount equal to \$ 75.00 per diem for each locomotive for

each day during the applicable term, payable on the earlier of December 31, 1993 and the termination of this Agreement. Such rental payments shall not give KCS any right of ownership in the locomotives and shall in no way be considered a payment or a partial payment for the locomotives.

5. KCS shall permit no liens or encumbrances of any kind to attach to the locomotives, and it agrees to:

(a) Indemnify and save Carland harmless from any and all claims, expenses or liabilities whatsoever, including, but not limited to, attorneys' fees and costs, which may arise during the time any of the locomotives are in the possession of KCS; and

(b) Pay any and all taxes, fines, charges and penalties that may accrue or be assessed or imposed upon the locomotives or Carland because of Carland's ownership or because of the use, operation, management, maintenance, repair or handling of the locomotives during or with respect to the term of this Agreement. The obligations of KCS described in this Section 5 shall survive termination of this Agreement.

6. KCS shall, at its own expense, keep and maintain the locomotives in good order and running condition applying the manufacturer's recommended normal maintenance standards and procedures, and shall (a) promptly repair any of the locomotives which may be damaged by any cause during the term of this Agreement and (b) promptly pay to Carland the purchase price (as set forth in the GCC Purchase Agreement) for any of the locomotives that may be destroyed by any cause during the term of this Agreement. Unless purchased by KCS at the end of the term of this Agreement, KCS shall return each locomotive to Carland at the end of the term of this Agreement in such manner as Carland shall reasonably request and in the condition required by this Agreement.

7. By execution of this Agreement, none of the parties waive any provisions of the GCC Purchase Agreement.

8. Prior to delivery under this Agreement, each locomotive shall be numbered as follows:

Two GP-38-2 2000 horsepower 1975 built locomotives shall bear the locomotive number KCS 4032 and KCS 4033. ✓

KCS hereby agrees to indemnify Carland against any liability, loss or expense incurred by it as a result of placing the aforementioned markings on the locomotives. If during the term of this Agreement such markings shall at any time be removed,

defaced or destroyed, KCS shall immediately cause the same to be restored or replaced.

9. In the event KCS shall be in breach of any of the provisions of this Agreement for more than five days, Carland may, in addition to any other remedies it may have, terminate KCS's right to possess the locomotives and may enter upon the premises of KCS or such other premises where the locomotives may be and take possession of all or any locomotives, and thenceforth hold, possess and enjoy the same free from any right of KCS or its successors or assigns. In such event, Carland may use the locomotives for any purpose whatsoever, and may sell and deliver the locomotives to others upon such terms as Carland may see fit in its sole discretion, all without any obligation to KCS for mitigation of damages or otherwise.

10. Carland and KCS each represent and warrant to the other that:

(a) It is a duly organized and validly existing corporation in good standing under the laws of its state of incorporation, is duly qualified to do business in such jurisdictions as are necessary to carry out the transactions contemplated by this Agreement and has power and authority to own its properties and carry on its business as now conducted;

(b) The execution and delivery of this Agreement is within its corporate authority, has been authorized by proper corporate proceedings and will not contravene or constitute a default under the provisions of any agreement or other instrument binding upon it, and this Agreement is a valid and binding obligation of each enforceable, subject to applicable insolvency, bankruptcy or moratorium laws, against each in accordance with its terms;

(c) The rights and title of Carland to the locomotives are not subject to the lien of any mortgage, security agreement or other instrument; and

(d) No governmental authorizations, approvals or exemptions are required for the execution and delivery of this Agreement or for the validity and enforceability hereof or the bailment of the locomotives hereunder on the terms and conditions provided herein, or, if any such authorizations are required, they have been obtained; if any such shall hereafter be required, they will promptly be obtained.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

12. Carland and KCS agree that this document may be filed with the Interstate Commerce Commission and any other appropriate recording agencies.

Attest:
{CORPORATE SEAL}

Sherry K. Cooper
Assistant Corporate
Secretary

THE KANSAS CITY SOUTHERN
RAILWAY COMPANY

By: J. E. N. [Signature]

Title: Exec. VP + C.O.O.

Attest:
{CORPORATE SEAL}

James E. [Signature]
Corporate Secretary

CARLAND, INC.

By: [Signature]

Title: V.P. Gen Mgr.

APPROVED AS TO FORM

R. P. [Signature]

ACKNOWLEDGEMENT OF THE KANSAS CITY SOUTHERN RAILWAY COMPANY

I, SHERRY K. COOPER, certify that I am
ASST. SECRETARY of The Kansas City Southern Railway Company,
that the seal affixed to the foregoing instrument is the corpo-
rate seal of said corporation, that the instrument was signed and
sealed on behalf of the corporation by authority of its Board of
Directors, and that I acknowledge that the execution of the
foregoing instrument was the free act and deed of the corpora-
tion. I further declare under penalty of perjury that the
foregoing is true and correct.

Executed on April 28, 1993.

Sherry K. Cooper

ACKNOWLEDGEMENT OF CARLAND, INC.

I, JAMES E. DOSS, certify that I am
Secretary of Carland, Inc., that the seal affixed to the
foregoing instrument is the corporate seal of said corporation,
that the instrument was signed and sealed on behalf of the
corporation by authority of its Board of Directors, and that I
acknowledge that the execution of the foregoing instrument was
the free act and deed of the corporation. I further declare
under penalty of perjury that the foregoing is true and correct.

Executed on April 28, 1993.

James E. Doss

EXHIBIT A

Certificate of Acceptance

This is to certify that the following equipment covered by a User Agreement between The Kansas City Southern Railway Company ("KCS") and Carland, Inc. ("Carland") dated April ____, 1993, has been inspected and accepted by KCS this ____ day of _____, 1993.

Description of Equipment

<u>Number of Units</u>	<u>Description</u>	<u>Engine Numbers</u>
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THE KANSAS CITY SOUTHERN RAILWAY COMPANY

BY _____

TITLE _____